



Commonwealth of Virginia

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

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**STATE WATER CONTROL BOARD
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
CARROLL COUNTY PUBLIC SERVICE AUTHORITY
FOR
I-77 EXIT 1 WASTEWATER TREATMENT PLANT
VPDES Permit No. VA0092312**

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 62.1-44.15, between the State Water Control Board and the Carroll County Public Service Authority, regarding the I-77 Exit 1 Wastewater Treatment Plant, for the purpose of resolving certain violations of the State Water Control Law and the applicable permit and regulation.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "305(b) report" means the report required by Section 305(b) of the Clean Water Act (33 United States Code § 1315(b)), and Va. Code § 62.1-44.19:5 for providing Congress and the public an accurate and comprehensive assessment of the quality of State surface waters.
2. "Board" means the State Water Control Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and 62.1-44.7.
3. "Carroll County PSA" or "PSA" means the Carroll County Public Service Authority, an authority created pursuant to the Virginia Water and Waste Authorities Act, Va. Code § 15.2-5100 *et seq.* The Carroll County Public Service Authority is a "person" within the meaning of Va. Code § 62.1-44.3.

4. “Department” or “DEQ” means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.
5. “Director” means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.
6. “Discharge” means discharge of a pollutant. 9 VAC 25-31-10
7. “Discharge of a pollutant” when used with reference to the requirements of the VPDES permit program means:
 - (a) Any addition of any pollutant or combination of pollutants to surface waters from any point source; or
 - (b) Any addition of any pollutant or combination of pollutants to the waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft which is being used as a means of transportation.
8. “DMR” means Discharge Monitoring Report.
9. “Effluent” means wastewater – treated or untreated – that flows out of a treatment plant, sewer, or industrial outfall.
10. “Facility”, “Plant” or “WWTP” means the I-77 Exit 1 Wastewater Treatment Plant located at 123 Beauty Shop Road, Lambsburg, Virginia, which treats and discharges treated sewage and other municipal wastes, for the residents and businesses of Carroll County.
11. “Notice of Violation” or “NOV” means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.
12. “O&M” means operations and maintenance.
13. “Order” means this document, also known as a “Consent Order” or “Order by Consent,” a type of Special Order under the State Water Control Law.
14. “Permit” means VPDES Permit No. VA0092312, which was reissued under the State Water Control Law and the Regulation to the Carroll County Public Service Authority on April 1, 2018 and which expires on March 31, 2023.
15. “Pollutant” means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials (except those regulated under the Atomic Energy Act of 1954, as amended (42 USC § 2011 *et seq.*)), heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water... 9 VAC 25-31-10.

16. “Pollution” means such alteration of the physical, chemical, or biological properties of any state waters as will or is likely to create a nuisance or render such waters (a) harmful or detrimental or injurious to the public health, safety, or welfare or to the health of animals, fish, or aquatic life; (b) unsuitable with reasonable treatment for use as present or possible future sources of public water supply; or (c) unsuitable for recreational, commercial, industrial, agricultural, or other reasonable uses, provided that (i) an alteration of the physical, chemical, or biological property of state waters or a discharge or deposit of sewage, industrial wastes or other wastes to state waters by any owner which by itself is not sufficient to cause pollution but which, in combination with such alteration of or discharge or deposit to state waters by other owners, is sufficient to cause pollution; (ii) the discharge of untreated sewage by any owner into state waters; and (iii) contributing to the contravention of standards of water quality duly established by the Board, are “pollution.” Va. Code § 62.1-44.3.
17. “Regulation” means the VPDES Permit Regulation, 9 VAC 25-31-10 *et seq.*
18. “State Water Control Law” means Chapter 3.1 (§ 62.1-44.2 *et seq.*) of Title 62.1 of the Va. Code.
19. “State waters” means all water, on the surface and under the ground, wholly or partially within or bordering the Commonwealth or within its jurisdiction, including wetlands. Va. Code § 62.1-44.3.
20. “SWRO” means the Southwest Regional Office of DEQ, located in Abingdon, Virginia.
21. “Va. Code” means the Code of Virginia (1950), as amended.
22. “VAC” means the Virginia Administrative Code.
23. “VPDES” means Virginia Pollutant Discharge Elimination System.
24. “Warning Letter” or “WL” means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.

SECTION C: Findings of Fact and Conclusions of Law

1. The Carroll County PSA owns and operates the WWTP. The Permit allows the PSA to discharge treated sewage and other municipal wastes from the Plant, to Stony Creek, in strict compliance with the terms and conditions of the Permit.
2. Stony Creek is located in the Roanoke and Yadkin River Basin, Yadkin River Subbasin, Section 1, Class IV, Special Standards: PWS. Stony Creek is unassessed and is not listed in DEQ’s 305(b) report as impaired.

3. In submitting its DMRs, as required by the Permit, the PSA has indicated that it exceeded the discharge limitations contained in Part I.A.1 of the Permit, as described in the table below:

Parameter	Observations – DMR Monitoring Period and Relevant Reported Monitoring Results										Legal Req.
	July 2020	Aug 2020	Sept 2020	Oct 2020	Nov 2020	Dec 2020	Jan 2021	Feb 2021	Mar 2021	Apr 2021	
003 BOD5 quantity average KG/D			1.04							0.86	0.76
003 BOD5 quantity maximum KG/D							1.32				1.1
003 BOD5 concentration average mg/L	10.3		34.5			27.0	16.1			25.1	10
003 BOD5 concentration maximum mg/L			34.5			27.0	17.3			25.1	15
007 DO concentration minimum mg/L		6.2	3.5	5.5	6.0					4.9	6.5
039 Ammonia concentration average AS N			8.86								3.0
039 Ammonia concentration maximum AS N			8.86								3.0
120 E. Coli concentration average mg/L				164.8	1119.8	744.3	722.0	228.4	440.4		126
004 TSS concentration average mg/L							32.2				30
004 TSS concentration maximum mg/L							50				40.0

4. On November 10, 2020, SWRO issued WL No. W2020-11-S-1012 to the PSA, citing the July, August, and September 2020 violations of permitted effluent limits described in paragraph C(3). On November 25, 2020, SWRO received a response to the WL from the PSA advising that it had taken action regarding the cited violations. The response stated that the PSA had lost the certified operator for the Facility in August 2020, but had since obtained the services of a contractor to oversee Facility operations. The response also indicated that the PSA had addressed a number of maintenance issues at the Facility.
5. On December 30, 2020, SWRO issued WL No. W2020-12-S-1029 to the PSA, citing the October and November 2020 violations of permitted effluent limits described in paragraph C(3). On January 27, 2021, SWRO received a response to the WL from the PSA advising that it had taken action regarding the cited violations. The response stated

that the PSA was continuing to address a number of maintenance issues that persisted at the Facility.

6. On February 11, 2021, SWRO issued WL No. W2021-02-S-1014 to the PSA, citing the December 2020 violations of permitted effluent limits described in paragraph C(3).
7. On March 17, 2021, SWRO issued NOV No. W2021-03-S-0002 to the PSA, citing the January and February 2021 violations of permitted effluent limits described in paragraph C(3). The NOV also cited the July through December 2020 violations of permitted effluent limits, initially cited in the November 10, 2020, December 30, 2020, and February 11, 2021 WLs, as described in paragraphs C(4) through C(6). While not cited in a WL or NOV, the March and April 2021 violations of permitted effluent limits, as described in paragraph C(3), are also covered by this Order.

The Permit, at Part I, Section A, sets forth the final effluent parameter permit limits.

Va. Code § 62.1-44.5 states, in part: “Except in compliance with a certificate or permit issued by the Board..., it shall be unlawful for any person to... [d]ischarge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances....”

The Regulation, at 9 VAC 25-31-50, also states that except in compliance with a VPDES permit, or another permit issued by the Board, it is unlawful to discharge into state waters sewage, industrial wastes or other wastes.

8. On April 7, 2021, the PSA provided an initial telephone response to the March 17, 2021 NOV. A follow-up written response to the NOV was received by SWRO on April 21, 2021. The written response, dated April 16, 2021, outlined the PSA’s proposal to address the violations cited in the NOV and requested a meeting with SWRO staff to discuss the proposal.
9. On May 6, 2021, SWRO held a conference call with the PSA to discuss the proposed corrective actions, which included 1) development of a better maintenance plan for the Facility; 2) increased sludge wasting to make up wasting time that was lost due to a faulty valve; 3) replacement of all UV system bulbs to aid in meeting permitted E. coli effluent limits; 4) evaluation of increasing hours of operation, as needed, in order to achieve improved Plant operation; and 5) consideration of conducting an engineering flow study to determine if peak flow demands may be resulting in operational issues. SWRO compliance staff were agreeable to the corrective actions proposed by the PSA.
10. The Department has issued no permits or certificates to the PSA for discharge from the Facility other than VPDES Permit No. VA0092312.
11. Stony Creek is a surface water located partially within the Commonwealth and is a “state water” under State Water Control Law.

12. Based on the July through December 2020 and January through April 2021 DMRs submitted to SWRO by the PSA and the November 25, 2020, January 27, 2021, and April 16, 2021 correspondence to DEQ from the PSA, the Board concludes that the Carroll County PSA has violated the Permit, Va. Code § 62.1-44.5, and the Regulation 9 VAC 25-31-50, by discharging treated and partially treated sewage and municipal wastes from the Plant while concurrently failing to comply with the conditions of the Permit, as described in paragraphs C(3) through C(9), above.
13. In order for the PSA to return to compliance, DEQ staff and representatives of the PSA have agreed to the Schedule of Compliance, which is incorporated as Appendix A of this Order.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code §§ 62.1-44.15, the Board orders the Carroll County Public Service Authority, and the Carroll County Public Service Authority agrees to:

1. Perform the actions described in Appendix A of this Order; and
2. Pay a civil charge of \$7,087.50 within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

The Carroll County Public Service Authority shall include its Federal Employer Identification Number (FEIN) with the civil charge payment **and** shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF). If the Department has to refer collection of moneys due under this Order to the Department of Law, the Carroll County Public Service Authority shall be liable for attorneys' fees of 30% of the amount outstanding.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of the Carroll County PSA for good cause shown by the PSA, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.

2. This Order addresses and resolves only those violations specifically identified in Section C of this Order and in NOV No. W2021-03-S-0002, dated March 17, 2021, WL No. W2021-02-S-1014, dated February 11, 2021, WL No. W2020-12-S-1029, dated December 30, 2020, and WL No. W2020-11-S-1012, dated November 10, 2020. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.
3. For purposes of this Order and subsequent actions with respect to this Order only, the PSA admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. The PSA consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. The PSA declares it has received fair and due process under the Administrative Process Act and the State Water Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.
6. Failure by the PSA to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. The PSA shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. The PSA shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. The PSA shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;

- c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
- d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

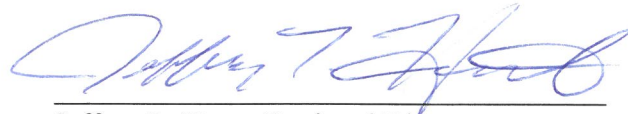
- 9. This Order is binding on the parties hereto and any successors in interest, designees and assigns, jointly and severally.
- 10. This Order shall become effective upon execution by both the Director or his designee and the PSA. Nevertheless, the PSA agrees to be bound by any compliance date which precedes the effective date of this Order.
- 11. This Order shall continue in effect until:
 - a. the Director or his designee terminates the Order after the PSA has completed all of the requirements of the Order;
 - b. the PSA petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
 - c. the Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to the PSA.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve the PSA from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

- 12. Any plans, reports, schedules or specifications attached hereto or submitted by the PSA and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
- 13. The undersigned representative of the PSA certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind the PSA to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of the PSA.

14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.
15. By its signature below, the PSA voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 24th day of August, 2021.



Jeffrey L. Hurst, Regional Director
Department of Environmental Quality

The Carroll County Public Service Authority voluntarily agrees to the issuance of this Order.

Date: 6/24/21 By: M. L. Watson, Administrator
(Person) (Title)
Carroll County Public Service Authority

Commonwealth of Virginia

City/County of Carroll

The foregoing document was signed and acknowledged before me this 24 day of

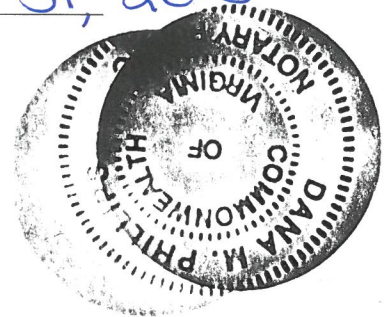
June, 2021, by Michael Watson who is
Director of the Carroll County Public Service Authority, on behalf of
the Authority.

Dana M. Phillips
Notary Public

279410
Registration No.

My commission expires: July 31, 2023

Notary seal:



APPENDIX A SCHEDULE OF COMPLIANCE

In order to comply with the provisions of the State Water Control Law, the Regulation and the Permit, the Carroll County PSA agrees to implement the following actions by the dates noted below:

1. Increase sludge wasting until such time that sludge age is properly adjusted in order to remediate deteriorated conditions and treatment within the aerated sludge holding tank resulting from a faulty valve.....within 30 days of the effective date of this Order.
2. Replace all UV bulbs within the Facility UV system.....
.....within 30 days of the effective date of this Order.
3. Increase hours of Facility operator presence to a level sufficient for achievement of improved Facility operation and consistent compliance with permitted final effluent limits.....within 30 days of the effective date of this Order.
4. Develop and implement an improved maintenance plan for the Facility.....
.....within 90 days of the effective date of this Order.
5. Perform an engineering flow study to determine if peak flow demands are leading to Facility operational issues, and submit the results of the study to DEQ for review.....
.....within 120 days of the effective date of this Order.
6. Provide progress reports regarding the items outlined within this Schedule of Compliance, with the first report due 30 days after the effective date of this Order and subsequent reports due every 30 days until such time that all items have been satisfactorily completed.

Unless otherwise specified in this Order, the PSA shall submit all requirements of Appendix A of this Order to:

Ruby Scott
Compliance Auditor
Virginia DEQ – Southwest Regional Office
355-A Deadmore Street
Abingdon, Virginia 24210
Phone: (276) 676-4882
ruby.scott@deq.virginia.gov